

Exhibit 5

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE NATIONAL PRESCRIPTION | MDL No. 2804
5 |
6 OPIATE LITIGATION | Case No. 17-MD-2804
7 |
8 APPLIES TO ALL CASES | Hon. Dan A. Polster

9 - - -
10 Wednesday, April 24, 2019
11 - - -

12 CONFIDENTIAL - SUBJECT TO FURTHER

13 CONFIDENTIALITY REVIEW
14 - - -

15 Volume 2

16 VIDEOTAPED DEPOSITION of MATTHEW PERRI, III,
17 BS Pharm, Ph.D., RPh, held at Jones Day,
18 1420 Peachtree Street, N.E., Suite 800, Atlanta,
19 Georgia, commencing at 8:35 a.m., on the above date,
20 before Susan D. Wasilewski, Registered Professional
21 Reporter, Certified Realtime Reporter and Certified
22 Realtime Captioner.

23 - - -
24 GOLKOW LITIGATION SERVICES
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 deps@golkow.com

1 but stick to some questions specific to my client.

2 A. Okay.

3 Q. And I'm -- am I correct, based on what I
4 heard in your testimony so far, that you are not
5 offering a Teva-specific opinion in your report or
6 your testimony?

7 A. Yes.

8 Q. And similarly, you are not offering any
9 Cephalon-specific opinion in your report or your
10 testimony?

11 A. Yes.

12 Q. Okay. If we could turn -- we can go back to
13 Exhibit 1 to your report, and if we could turn to
14 Paragraph 165.

15 A. Okay.

16 Q. All right. This is under Subsection G,
17 Defendants' Generic Marketing; is that correct?

18 A. Yes, it is.

19 Q. And it looks to me like Subsection G goes
20 through Paragraph 182; is that correct?

21 A. Yes.

22 Q. And does this Section G, Paragraphs 165
23 through 182, represent the entirety of the opinions
24 you're giving on generic marketing, generics
25 marketing?

1 MR. CHALOS: Object to the form.

2 A. I think so. I think the only other place
3 there might be something related to marketing of
4 generics would be in the section on the distribution
5 channels, the supply chain earlier in the report,
6 but it wouldn't be anything different. It just
7 might be supplemental.

8 Q. Okay. And what do you mean, just so that we
9 can be clear, when you refer to generic marketing?

10 A. So the marketing for brand name
11 pharmaceuticals and marketing for generics, in my
12 experience, is slightly different.

13 Q. Okay.

14 A. So I felt as though I should distinguish
15 between the two in the report. So to the extent
16 that different methods are used or different themes
17 are used, I wanted to have a section that
18 specifically related to the themes used with
19 generics.

20 Q. Okay. And this is specific to generic
21 prescription medicines, and in this case opioids,
22 it's not generic in the sense of nonspecific or
23 unbranded, it's generic prescription medicines and
24 opioids?

25 A. Yes.

1 Q. All right. If we could turn to Paragraph
2 173.

3 A. Okay.

4 Q. And the last sentence of that paragraph
5 reads: The key marketing messages are focused on
6 competitive prices and the assurance of consistent
7 supply of quality generic medicines -- medications.
8 Did I read that correctly?

9 A. Yes, you did.

10 Q. Thank you. And I think you reference that
11 just a minute ago, that those marketing messages are
12 different than what you've seen with the branded
13 marketing messages; is that correct?

14 A. Yes.

15 Q. Okay. And generic manufacturers do not
16 promote the safety, efficacy, or benefits of their
17 generic medications; is that correct?

18 MR. CHALOS: Object to the form.

19 A. I would agree that they generally don't do
20 that, but if there is not -- I can't say that that's
21 never done with respect to generics. And if we
22 qualify that just a little bit, for example,
23 sometimes with generics there are -- references are
24 made to other products or comparable products, the
25 branded product itself. So when that occurs, the

1 generic is sort of linking itself to the branded
2 rather than just standing alone on its own. So with
3 those qualifications -- generally, I completely
4 agree with this, and this is what I see in the vast
5 majority of the marketing messages associated with
6 generics that I saw in the opioid matter, was that
7 they focused on consistency of supply, pricing and
8 quality of the products.

9 Q. Okay. Thank you. And turning to
10 Paragraph 182 -- sorry, 181, but just above still on
11 page 151.

12 A. Okay.

13 Q. Although we can read the sentence from the
14 beginning, just go back to page 150. The sentence
15 starting: "From a marketing and business
16 perspective, for each generic manufacturer who
17 decided to enter the opioid market, the profit
18 potential outweighed any barriers or potential
19 negative aspects of market entry, including concerns
20 over the risks of selling opioids."

21 Did I read that correctly?

22 A. You did.

23 Q. And this calculus, that profits outweigh the
24 risks and costs of a particular product, that
25 calculus is not unique to a decision to enter a

1 market for opioids; is that correct?

2 A. Yes, that's true, the go/no go decision
3 described in this section on my report, it would be
4 true for any generic product being considered.

5 Q. Okay. And medications that are available by
6 prescription, as opposed to, say, over the counter,
7 that is because there is some degree of risks
8 associated with those medications, correct?

9 A. I think by definition, prescription
10 medications are more dangerous or more -- have more
11 potential for harms than over-the-counter
12 medicines, yes.

13 Q. Okay. So a pharmaceutical manufacturer is
14 going to undergo a similar calculus when deciding to
15 manufacture or enter the market for any drug,
16 correct?

17 A. I think there would be a contemplative
18 decision that would be made and they would -- they'd
19 have criteria. Certainly I think the criteria for a
20 branded product may be different and certainly have
21 higher implications in terms of the amount of
22 investment that you've got to put into the product,
23 the amount of time that it would take to develop and
24 bring to market, but the overall "should we do this
25 or not" is going to be pretty similar at the end of

1 the day: Is this a market where we can find enough
2 customers to satisfy a model that's going to
3 generate the revenues we need to make to maximize
4 shareholder wealth and stay in business?

5 Q. Okay. And you're not giving an opinion that
6 there is anything wrong with selling generic opioid
7 medications; is that correct?

8 A. No, I'm not giving an opinion that there is
9 anything wrong with that.

10 Q. You're not giving an opinion that any
11 generic manufacturers in this case engaged in some
12 wrongful act; is that correct?

13 MR. CHALOS: Object to the form.

14 A. To the extent that, you know, opioid --
15 generic opioid manufacturers are part of the opinion
16 that, you know, the marketing expanded the opioid
17 market, they would be implicated in that, I think,
18 but I'm not making the assessment of right or wrong,
19 only that the marketing resulted in this expansion.
20 So I think the answer to your question is no, I'm
21 not giving that opinion, but there are opinions that
22 are related to that in the report just about the
23 expansion of the market, and certainly generics did
24 have a role in the expansion of the market.

25 Q. Okay. And generic opioids are subject to